

- 47 -

छत्तीसगढ़ शासन
सामान्य प्रशासन विभाग
(सूचना का अधिकार प्रकोष्ठ)
मंत्रालय

दाऊ कल्याण सिंह भवन, रायपुर

क्रमांक 1633 / जी-756 / 2009 / 1-सूअप्र
प्रति,

रायपुर, दिनांक 11 नवम्बर, 2009.

1. समस्त अपर मुख्य सचिव/प्रमुख सचिव/सचिव,
छत्तीसगढ़ शासन,
2. समस्त विभागाध्यक्ष,
3. समस्त संभागायुक्त,
4. समस्त कलेक्टर,
छत्तीसगढ़ ।

Sub:- Guide on Right to Information Act, 2005.

-00-

भारत सरकार, कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय (कार्मिक और प्रशिक्षण विभाग), नई दिल्ली से उनके कार्यालयीन ज्ञापन क्रमांक 1/4/2009-आई.आर., दिनांक 05 अक्टूबर 2009 के साथ प्राप्त "Guide on Right to Information Act, 2005" की प्रति आवश्यक कार्यवाई हेतु संलग्न प्रेषित है।

2. कृपया उक्त ज्ञापन में निहित निर्देशों से आपके अधीनस्थ कार्यालयों को भी सूचित करने का कष्ट करें।

संलग्न :- उपरोक्तानुसार ।

(सैयद कौसर अली)

अवर सचिव

छत्तीसगढ़ शासन

सामान्य प्रशासन विभाग

रायपुर, दिनांक 11 नवम्बर, 2009.

पू०क्रमांक 1634/जी-756/2009/1-सूअप्र
प्रतिलिपि :-

1. श्री के०जी० वर्मा, संचालक, भारत सरकार, कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय (कार्मिक और प्रशिक्षण विभाग), नई दिल्ली की ओर पत्र क्रमांक 1/20/2009-आई.आर., दिनांक 05 अक्टूबर 2009 के संदर्भ में सूचनार्थ।
 2. महामहिम राज्यपाल के सचिव, राजभवन, छ०ग०रायपुर ।
 3. मुख्य सचिव के स्टाफ आफिसर, छ०ग०शासन, रायपुर ।
 4. सचिव, छ.ग. राज्य सूचना आयोग, शंकर नगर, रायपुर ।
 5. सचिव, छ.ग. विधानसभा, विधानसभा सचिवालय, रायपुर ।
- की ओर सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित।

अवर सचिव

छत्तीसगढ़ शासन

सामान्य प्रशासन विभाग

- 27 -

What is a Public Authority

6. A "public authority" is any authority or body or institution of self government established or constituted by or under the Constitution; or by any other law made by the Parliament or a State Legislature; or by notification issued or order made by the Central Government or a State Government. The bodies owned, controlled or substantially financed by the Central Government or a State Government and non-Government organisations substantially financed by the Central Government or a State Government also fall within the definition of public authority. The financing of the body or the NGO by the Government may be direct or indirect.

Public Information Officer

7. Public authorities have designated some of its officers as Public Information Officer. They are responsible to give information to a person who seeks information under the RTI Act.

Assistant Public Information Officer

8. These are the officers at sub-divisional level to whom a person can give his RTI application or appeal. These officers send the application or appeal to the Public Information Officer of the public authority or the concerned appellate authority. An Assistant Public Information Officer is not responsible to supply the information.

9. The Assistant Public Information Officers appointed by the Department of Posts in various post offices are working as Assistant Public Information Officers for all the public authorities under the Government of India.

Right to Information under the Act

10. A citizen has a right to seek such information from a public authority which is held by the public authority or which is held under its control. This right includes inspection of work, documents and records; taking notes, extracts or certified copies of documents or records; and taking certified samples of material held by the public authority or held under the control of the public authority. It is important to note that only such information can be supplied under the Act which already exists and is held by the public authority or held under the control of the public authority. The Public Information Officer is not supposed to create information; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions.

11. The Act gives the citizens a right to information at par with the Members of Parliament and the Members of State Legislatures. According to the Act, the information which cannot be denied to the Parliament or a State Legislature, shall not be denied to any person.

12. A citizen has a right to obtain information from a public authority in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through print-outs provided such information is already stored in a computer or in any other device from which the information may be e-mailed or transferred to diskettes etc.

13. The information to the applicant should ordinarily be provided in the form in which it is sought. However, if the supply of information sought in a particular form would disproportionately divert the resources of the public authority or may cause harm to the safety or preservation of the records, supply of information in that form may be denied.

14. In some cases, the applicants expect the Public Information Officer to give information in some particular proforma devised by them on the plea that they have a right to get information

- 26 -

GUIDE ON RIGHT TO INFORMATION ACT, 2005

Part I FOR ALL STAKE HOLDERS

The right to information is implicitly guaranteed by the Constitution. However, with a view to set out a practical regime for securing information, the Indian Parliament enacted the Right to Information Act, 2005 and thus gave a powerful tool to the citizens to get information from the Government as a matter of right. This law is very comprehensive and covers almost all matters of governance and has the widest possible reach, being applicable to Government at all levels- Union, State and Local as well as recipients of government grants.

2. The Act requires the Government to compile a guide in easily comprehensible form and to update it from time to time. The Government has already published four guides in the past, one each for the information seekers, the public authorities, the Central Public Information Officers and the Appellate Authorities. Here is an updated consolidated guide for the use of all stake-holders. This guide contains five parts. Part I of the guide discusses some aspects of the Act which all the stake-holder are required to know. Rest of the four parts are specifically relevant to the public authorities, the information seekers, the public information officers and the first appellate authorities respectively.

3. Contents of this guide are specifically relevant in relation to the Central Government but are equally applicable to the State Governments except in relation to rules about payment of fee or deciding of appeals by the Information Commissions. It may be noted that this guide uses the term Public Information Officer in place of Central Public Information Officer/State Public Information Officer. Likewise Assistant Public Information Officer has been used for Central Assistant Public Information Officer/State Assistant Public Information Officer and Information Commission for Central Information Commission/State Information Commission except where it was considered necessary to make specific reference to the Central Public Information Officer/Central Information Commission etc. The Departmental Appellate Authority has been referred to as First Appellate Authority inasmuch as the first appeal lies with him.

Object of the Right to Information Act

4. The basic object of the Right to Information Act is to empower the citizens, promote transparency and accountability in the working of the Government, contain corruption, and make our democracy work for the people in real sense. It goes without saying that an informed citizen is better equipped to keep necessary vigil on the instruments of governance and make the government more accountable to the governed. The Act is a big step towards making the citizens informed about the activities of the Government.

What is Information

5. Information is any material in any form. It includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form. It also includes information relating to any private body which can be accessed by the public authority under any law for the time being in force.

in the form in which it is sought. It need be noted that the provision in the Act simply means that if the information is sought in the form of photocopy, it shall be provided in the form of photocopy, or if it is sought in the form of a floppy, it shall be provided in that form subject to the conditions given in the Act. It does not mean that the PIO shall re-shape the information. This is substantiated by the definition of the term 'right to information' as given in the Act, according to which, it includes right to obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through print-outs provided such information is already stored in a computer or in any other device. Everywhere in the Act, the word 'form' has been used to represent this meaning.

15. Some Information Seekers request the Public Information Officers to cull out information from some document(s) and give such extracted information to them. A citizen has a right to get 'material' from a public authority which is held by or under the control of that public authority. The Act, however, does not require the Public Information Officer to deduce some conclusion from the 'material' and supply the 'conclusion' so deduced to the applicant. It means that the Public Information Officer is required to supply the 'material' in the form as held by the public authority, but not to do research on behalf of the citizen to deduce anything from the material and then supply it to him.

Right to Information Vis-a-Vis other Acts

16. The RTI Act has over-riding effect vis-à-vis other laws inasmuch as the provisions of the RTI Act would have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than the RTI Act.

Supply of Information to Associations etc.

17. The Act gives the right to information only to the citizens of India. It does not make provision for giving information to Corporations, Associations, Companies etc. which are legal entities/persons, but not citizens. However, if an application is made by an employee or office-bearer of any Corporation, Association, Company, NGO etc. indicating his name and such employee/office bearer is a citizen of India, information may be supplied to him/her. In such cases, it would be presumed that a citizen has sought information at the address of the Corporation etc.

Fee for Seeking Information

18. A person who desires to seek some information from a public authority is required to send, along with the application, a demand draft or a banker's cheque or an Indian Postal Order of Rs.10/- (Rupees ten), payable to the Accounts Officer of the public authority as fee prescribed for seeking information. The payment of fee can also be made by way of cash to the Accounts Officer of the public authority or to the Assistant Public Information Officer against proper receipt.

19. The applicant may also be required to pay further fee towards the cost of providing the information, details of which shall be intimated to the applicant by the PIO as prescribed by the Right to Information (Regulation of Fee and Cost) Rules, 2005. Rates of fee as prescribed in the Rules are given below:

- (a) rupees two (Rs. 2/-) for each page (in A-4 or A-3 size paper) created or copied;
- (b) actual charge or cost price of a copy in larger size paper;
- (c) actual cost or price for samples or models;
- (d) for information provided in diskette or floppy, rupees fifty (Rs.50/-) per diskette or floppy; and

- (e) for information provided in printed form, at the price fixed for such publication or rupees two per page of photocopy for extracts from the publication.

20. As already pointed out, a citizen has a right to inspect the records of a public authority. For inspection of records, the public authority shall charge no fee for the first hour. But a fee of rupees five (Rs.5/-) for each subsequent hour (or fraction thereof) shall be charged.

21. If the applicant belongs to below poverty line (BPL) category, he is not required to pay any fee. However, he should submit a proof in support of his claim to belong to the below poverty line. The application not accompanied by the prescribed fee of Rs.10/- or proof of the applicant's belonging to below poverty line, as the case may be, shall not be a valid application under the Act. It may be pointed out that there is no bar on the public authority to supply information in response to such applications. However, provisions of Act would not apply to such cases.

Format of Application

22. There is no prescribed format of application for seeking information. The application can be made on plain paper. The application should, however, have the name and complete postal address of the applicant. Even in cases where the information is sought electronically, the application should contain name and postal address of the applicant.

23. The information seeker is not required to give reasons for seeking information.

Information Exempted From Disclosure

24. Sub-section (1) of section 8 and section 9 of the Act enumerate the types of information which is exempt from disclosure. Sub-section (2) of section 8, however, provides that information exempted under sub-section (1) or exempted under the Official Secrets Act, 1923 can be disclosed if public interest in disclosure overweighs the harm to the protected interest.

25. The information which, in normal course, is exempt from disclosure under sub-section (1) of Section 8 of the Act, would cease to be exempted if 20 years have lapsed after occurrence of the incident to which the information relates. However, the following types of information would continue to be exempt and there would be no obligation, even after lapse of 20 years, to give any citizen-

- (i) information disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interest of the State, relation with foreign state or lead to incitement of an offence;
- (ii) information the disclosure of which would cause a breach of privilege of Parliament or State Legislature; or
- (iii) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other Officers subject to the conditions given in proviso to clause (i) of sub-section (1) of Section 8 of the Act.

Record Retention Schedule and the Act

26. The Act does not require the public authorities to retain records for indefinite period. The records need be retained as per the record retention schedule applicable to the concerned public authority. Information generated in a file may survive in the form of an OM or a letter or in any other form even after destruction of the file/record. Section 8(3) of the Act requires furnishing of information so available after the lapse of 20 years even if such information was exempt from disclosure under sub-section (1) of Section 8.

Assistance Available to the Applicant

27. If a person is unable to make a request in writing, he may seek the help of the Public Information Officer to write his application and the Public Information Officer should render him reasonable assistance. Where a decision is taken to give access to a sensorily disabled person to any document, the Public Information Officer, shall provide such assistance to the person as may be appropriate for inspection.

Time Period for Supply of Information

28. In normal course, information to an applicant shall be supplied within 30 days from the receipt of application by the public authority. If information sought concerns the life or liberty of a person, it shall be supplied within 48 hours. In case the application is sent through the Assistant Public Information Officer or it is sent to a wrong public authority, five days shall be added to the period of thirty days or 48 hours, as the case may be. Further details in this regard are given in the chapter, 'For the Public Information Officers.'

Appeals

29. If an applicant is not supplied information within the prescribed time of thirty days or 48 hours, as the case may be, or is not satisfied with the information furnished to him, he may prefer an appeal to the first appellate authority who is an officer senior in rank to the Public Information Officer. Such an appeal, should be filed within a period of thirty days from the date on which the limit of 30 days of supply of information is expired or from the date on which the information or decision of the Public Information Officer is received. The appellate authority of the public authority shall dispose of the appeal within a period of thirty days or in exceptional cases within 45 days of the receipt of the appeal.

30. If the first appellate authority fails to pass an order on the appeal within the prescribed period or if the appellant is not satisfied with the order of the first appellate authority, he may prefer a second appeal with the Central Information Commission within ninety days from the date on which the decision should have been made by the first appellate authority or was actually received by the appellant.

Complaints

31. If any person is unable to submit a request to a Public Information Officer either by reason that such an officer has not been appointed by the concerned public authority; or the Assistant Public Information Officer has refused to accept his or her application or appeal for forwarding the same to the Public Information Officer or the appellate authority, as the case may be; or he has been refused access to any information requested by him under the RTI Act; or he has not been given a response to a request for information within the time limit specified in the Act; or he has been required to pay an amount of fee which he considers unreasonable; or he believes that he has been given incomplete, misleading or false information, he can make a complaint to the Information Commission.

Disposal of Appeals and Complaints by the CIC

32. The Central Information Commission decides the appeals and complaints and conveys its decision to the appellant/complainant and first appellate authority/ Public Information Officer. The Commission may decide an appeal/complaint after hearing the parties to the appeal/complaint or by inspection of documents produced by the appellant/complainant and Public Information Officer or such senior officer of the public authority who decided the first appeal. If the Commission chooses to hear the parties before deciding the appeal or the complaint, the Commission will inform the date of hearing to the appellant or the complainant at

31-
least seven clear days before the date of hearing. The appellant/complainant has the discretion to be present in person or through his authorized representative at the time of hearing or not to be present.

Third Party Information

33. Third party in relation to the Act means a person other than the citizen who has made request for information. The definition of third party includes a public authority other than the public authority to whom the request has been made.

Disclosure of Third Party Information

34. Information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, is exempt from disclosure. Such information should not be disclosed unless the competent authority is satisfied that larger public interest warrants the disclosure of such information.

35. In regard to a third party information which the third party has treated as confidential, the Public Information Officer should follow the procedure as given in the chapter 'FOR PUBLIC INFORMATION OFFICERS'. The third party should be given full opportunity to put his case for non-disclosure if he desires that the information should not be disclosed.

-32-

Part II

FOR PUBLIC AUTHORITIES

Public authorities are the repository of information which the citizens have a right to have under the Right to Information Act, 2005. The Act casts important obligations on public authorities so as to facilitate the citizens of the country to access the information held under their control. The obligations of a public authority are basically the obligations of the head of the authority, who should ensure that these are met in right earnest. Reference made to public authority in this document is, in fact, a reference to the head of the public authority.

Maintenance and Computerisation of Records

2. Proper management of records is of utmost importance for effective implementation of the provisions of the Act. A public authority should, therefore, maintain all its records properly. It should ensure that the records are duly catalogued and indexed in such a manner and form that it may facilitate the right to information.

Suo Motu Disclosure

3. Every public authority should provide as much information suo motu to the public through various means of communications so that the public have minimum need to use the Act to obtain information. Internet being one of the most effective means of communications, the information may be posted on the website.

4. Section 4(1)(b) of the Act, in particular, requires every public authority to publish following sixteen categories of information:

- (i) the particulars of its organisation, functions and duties;
- (ii) the powers and duties of its officers and employees;
- (iii) the procedure followed in the decision making process, including channels of supervision and accountability;
- (iv) the norms set by it for the discharge of its functions;
- (v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
- (vi) a statement of the categories of documents that are held by it or under its control;
- (vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
- (viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;
- (ix) directory of its officers and employees;
- (x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
- (xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
- (xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
- (xiii) particulars of recipients of concessions, permits or authorisations granted by it;
- (xiv) details in respect of the information, available to or held by it, reduced in an electronic form;

- 33-
- (xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
 - (xvi) the names, designations and other particulars of the Public Information Officers.

5. Besides the categories of information enumerated above, the Government may prescribe other categories of information to be published by any public authority. It need be stressed that publication of the information as referred to above is not optional. It is a statutory requirement which every public authority is bound to meet.

6. Another important point to note is that it is not sufficient to publish the above information once. The public authority is obliged to update such information every year. It is advisable that, as far as possible, the information should be updated as and when any development takes place. Particularly, in case of publication on the internet, the information should be kept updated all the time.

Dissemination of Information

7. The public authority should widely disseminate the information. Dissemination should be done in such form and manner which is easily accessible to the public. It may be done through notice boards, newspapers, public announcements, media broadcast, the internet or any other means. The public authority should take into consideration the cost effectiveness, local language and most effective method of communication in the local area while disseminating the information.

Publication of Facts about Policies and Decisions

8. Public authorities formulate policies and take various decisions from time to time. As provided in the Act, while formulating important policies or announcing the decisions affecting the public, the public authority should publish all relevant facts about such policies and decisions for the information of public at large.

Providing Reasons for Decisions

9. The public authorities take various administrative and quasi-judicial decisions which affect the interests of certain persons. It is mandatory for the concerned public authority to provide reasons for such decisions to the affected persons. It may be done by using appropriate mode of communication.

Designation of PIOs and APIOs etc.

10. Every public authority is required to designate Public Information Officers in all the administrative units or offices under it. Every public authority is also required to designate Assistant Public Information Officers at each sub-divisional level. The Government of India has decided that Central Assistant Public Information Officers (CAPIOs) appointed by the Department of Posts would act as CAPIOs for all the public authorities under the Government of India.

Designation of Appellate Authority

11. Sub-section (8) of Section 7 of the RTI Act provides that where a request for information is rejected, the Public Information Officer shall, inter-alia, communicate the particulars of the Appellate Authority to the person making the request. Thus, the applicant is informed about the particulars of the Appellate Authority when a request for information is rejected but there may be cases where the Public Information Officer does not reject the application, but the applicant does not receive a decision within the time as specified in the Act or he is aggrieved by the decision of the Public Information Officer. In such a case the applicant may like to exercise his

- 34 -

right to appeal. But in absence of the particulars of the appellate authority, the applicant may face difficulty in making an appeal. All the public authorities should, therefore, designate the First Appellate Authorities and publish their particulars alongwith the particulars of the Public Information Officers.

Acceptance of Fee

12. According to the Right to Information (Regulation of Fee and Cost) Rules, 2005 as amended by the Right to Information (Regulation of Fee and Cost) Rules, 2006, an applicant can make payment of fee in cash or by demand draft or banker's cheque or Indian Postal Order payable to the Accounts Officer of the public authority. The public authority should ensure that payment by any of the above modes is not denied or the applicant is not compelled to draw IPO etc. in the name of any officer other than the Accounts Officer. If any public authority does not have any Accounts Officer, it should designate an officer as such for the purpose of receiving fee under the RTI Act or rules made thereunder.

Compliance of the Orders of the Information Commission

13. While deciding an appeal, the Information Commission, may require the concerned public authority to take such steps as may be necessary to secure compliance with the provisions of the Act. In this regard the Commission may pass an order to provide information to an applicant in a particular form; appoint a Public Information Officer; publish certain information or categories of information; make necessary changes to its practices in relation to the maintenance, management and destruction of records; enhance the provision of training for its officials; provide an annual report as prepared in compliance with clause (b) of subsection (1) of section 4 of the Act.

14. The Commission has power to pass orders requiring a public authority to compensate the complainant for any loss or other detriment suffered by him. It also has power to impose penalty on the Public Information Officer as provided in the Act. It may be noted that penalty is imposed on the Public Information Officer which is to be paid by him. However, the compensation, ordered by the Commission to be paid to an applicant would have to be paid by the public authority,

15. The decisions of the Commission are binding. The public authority should ensure that the orders passed by the Commission are implemented. If any public authority or a PIO is of the view that an order of the Commission is not in consonance with the provisions of the Act, it may approach the High Court by way of a Writ Petition.

Development of Programmes etc.

16. It is expected of each public authority that it would develop and organise educational programmes to advance the understanding of the public, in particular of disadvantaged communities, as to how to exercise the rights contemplated under the Act; and ensure timely and effective dissemination of accurate information about their activities. Training of the Public Information Officers and other officers of a public authority is very important for meeting these expectations and effective implementation of the provisions of the Act. The public authorities should, therefore, arrange for training of their officers designated as Public Information Officer/First Appellate Authority and other officers who are directly or indirectly involved in the implementation of the provisions of the Act.

Creation of Central Point

17. Sub-section (1) of Section 5 of the Right to Information Act, 2005 mandates all public authorities to designate as many Public Information Officers as necessary to provide information under the Act. Where a public authority designates more than one Public Information Officer

-35-

(PIO), an applicant is likely to face difficulty in approaching the appropriate Public Information Officer. The applicants would also face problem in identifying the officer senior in rank to the Public Information Officer to whom an appeal under sub-section (1) of Section 19 of the Act can be made. Therefore all public authorities with more than one PIO should create a central point within the organisation where all the RTI applications and the appeals addressed to the First Appellate Authorities may be received. An officer should be made responsible to ensure that all the RTI applications/appeals received at the central point are sent to the concerned Public Information Officers/Appellate Authorities, on the same day.

Transfer of Applications

18. The Act provides that if an application is made to a public authority requesting for an information, which is held by another public authority; or the subject matter of which is more closely connected with the functions of another public authority, the public authority, to which such application is made, shall transfer the application or relevant part of it to that other public authority within five days from the receipt of the application. The public authority should sensitize its officers about this provision of the Act lest the public authority is held responsible for delay.

Annual Report of the CIC

19. The Information Commissions, after the end of each year, are required to prepare reports on the implementation of the provisions of the Act during that year. Each Ministry or Department is required, in relation to the public authorities within its jurisdiction, to collect and provide information to the concerned Information Commission for preparation of the report. The report of the Commission, inter-alia, contains following information in respect of the year to which the report relates—

- (a) the number of requests made to each public authority;
- (b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of the Act under which these decisions were made and the number of times such provisions were invoked;
- (c) particulars of any disciplinary action taken against any officer in respect of the administration of the Act;
- (e) the amount of charges collected by each public authority under the Act; and
- (f) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of the Act.

20. Every public authority should send necessary material to its administrative Ministry/Department soon after the end of the year so that the Ministry/Department may send the information to the Commission and the Commission may incorporate the same in its report.

21. If it appears to the Information Commission that a practice of a public authority in relation to the exercise of its functions under the Act does not conform with the provisions or spirit of the Act, it may give a recommendation to the authority specifying the steps ought to be taken for promoting such conformity. The concerned public authority should take necessary action to bring its practice in conformity with the Act.

- 36 -

Part III

FOR INFORMATION SEEKERS

Method of Seeking Information

A citizen who desires to obtain any information under the Act, should make an application to the Public Information Officer of the concerned public authority in writing in English or Hindi or in the official language of the area in which the application is made. The application should be precise and specific. He should make payment of application fee at the time of submitting the application as prescribed in the Fee Rules. The applicant can send the application by post or through electronic means or can deliver it personally in the office of the public authority. The application can also be sent through an Assistant Public Information Officer.

Application to the concerned Public Authority:

2. The applicant should make application to the concerned public authority. It is advised that he should make all efforts to ascertain as to which is the public authority concerned with the information and should send application to the Public Information Officer of that public authority.
3. It is observed that some applicants seek information in respect of many subjects by way of one application. It creates problem for the Public Information Officer as well as the applicant. The applicant should, therefore, see to it that by way of one application, he seeks information in respect of one subject only.

Fee for Seeking Information

4. The applicant, along with the application, should send application fee to the Public Information Officer. In case of Government of India prescribed application fee is Rs. 10/- which can be paid through a demand draft or a banker's cheque or an Indian Postal Order payable to the Accounts Officer of the public authority. The payment of fee can also be made by way of cash to the Accounts Officer of the public authority or to the Assistant Public Information Officer against proper receipt.
5. The applicant may also be required to pay further fee towards the cost of providing the information, details of which shall be intimated to the applicant by the Public Information Officer. The fee so demanded can be paid the same way as application fee.
6. If the applicant belongs to below poverty line (BPL) category, he is not required to pay any fee. However, he should submit a proof in support of his claim to belong to the below poverty line. The application not accompanied by the prescribed application fee or proof of the applicant's belonging to below poverty line, as the case may be, shall not be a valid application under the Act.

Format of Application

7. There is no prescribed format of application for seeking information. The application can be made on plain paper. The application should, however, have the name and complete postal address of the applicant. Even in cases where the information is sought electronically, the application should contain name and postal address of the applicant.

Filing of Appeal

8. An applicant can file an appeal to the first appellate authority if information is not supplied to him within the prescribed time of thirty days or 48 hours, as the case may be, or is not satisfied with the information furnished to him. Such an appeal, should be filed within a

period of thirty days from the date on which the limit of 30 days of supply of information expired or from the date on which the information or decision of the Public Information Officer is received. The appellate authority of the public authority shall dispose of the appeal within a period of thirty days or in exceptional cases within 45 days of the receipt of the appeal.

9. If the appellate authority fails to pass an order on the appeal within the prescribed period or if the appellant is not satisfied with the order of the first appellate authority, he may prefer a second appeal with the Information Commission within ninety days from the date on which the decision should have been made by the first appellate authority or was actually received by the appellant.

10. The appeal made to the Central Information Commission should contain the following information: -

- (i) Name and address of the appellant;
- (ii) Name and address of the Public Information Officer against the decision of whom the appeal is preferred;
- (iii) Particulars of the order including number, if any, against which the appeal is preferred;
- (iv) Brief facts leading to the appeal;
- (v) If the appeal is preferred against deemed refusal, particulars of the application, including number and date and name and address of the Public Information Officer to whom the application was made;
- (vi) Prayer or relief sought;
- (v) Grounds for prayer or relief;
- (vi) Verification by the appellant; and
- (vii) Any other information, which the Commission may deem necessary for deciding the appeal.

11. The appeal made to the Central Information Commission should be accompanied by the following documents:

- (i) Self-attested copies of the orders or documents against which appeal is made;
- (ii) Copies of the documents relied upon by the appellant and referred to in the appeal; and
- (iii) An index of the documents referred to in the appeal.

Filing of Complaints

12. A person can make a complaint to the Information Commission if he is unable to submit a request to a Public Information Officer either by reason that such an officer has not been appointed by the concerned public authority; or the Assistant Public Information Officer has refused to accept his or her application or appeal for forwarding the same to the Public Information Officer or the appellate authority, as the case may be; or he has been refused access to any information requested by him under the RTI Act; or he has not been given a response to a request for information within the time limit specified in the Act; or he has been required to pay an amount of fee which he considers unreasonable; or he believes that he has been given incomplete, misleading or false information.

Part IV

FOR PUBLIC INFORMATION OFFICERS

The Public Information Officer of a public authority plays a pivotal role in making the right of citizens to information a reality. The Act casts specific duties on him and makes him liable for penalty in case of default. It is, therefore, essential for a Public Information Officer to study the Act carefully and understand its provisions correctly. Besides the issues discussed elsewhere in this document, a Public Information Officer should keep the following aspects in view while dealing with the applications under the Act.

Applications Received Without Fee

2. Soon after receiving the application, the Public Information Officer should check whether the applicant has made the payment of application fee or whether the applicant is a person belonging to a Below Poverty Line (BPL) family. If application is not accompanied by the prescribed fee or the BPL Certificate, it cannot be treated as an application under the RTI Act. It may, however, be noted that Public Information Officer should consider such application sympathetically and try to supply information sought by way of such an application.

Transfer of Application

3. Some times requests are made to a public authority for information which do not concern that public authority or only a part of which is available with the public authority to which the application is made and remaining or whole of the information concerns another public authority or many other public authorities.

4. Section 6(1) of the RTI Act, 2005 provides that a person who desires to obtain any information shall make a request to the public information officer of the concerned public authority. Section 6(3) provides that where an application is made to a public authority requesting for any information which is held by another public authority or the subject matter of which is more closely connected with the functions of another public authority, the public authority to which such an application is made, shall transfer the application to that other public authority. The provisions of sub-section (1) and sub-section(3) of Section 6, suggest that the Act requires an 'information seeker to address the application to the Public Information Officer of the 'concerned public authority'. However, there may be cases in which a person of ordinary prudence may believe that the information sought by him/her would be available with the public authority to which he/she has addressed the application, but is actually held by some other public authority. In such cases, the applicant makes a bonafide mistake of addressing the application to the Public Information Officer of a wrong public authority. On the other hand where an applicant addresses the application to the Public Information Officer of a public authority, which to a person of ordinary prudence, would not appear to be the concern of that public authority, the applicant does not fulfill his responsibility of addressing the application to the 'concerned public authority'.

5. Given hereinafter are some situations which may arise in the matter and action required to be taken in such cases:

- (i) A person makes an application to a public authority for some information which concerns some another public authority. In such a case, the Public Information Officer receiving the application should transfer the application to the concerned public authority under intimation to the applicant. However, if the Public Information Officer of the public authority is not able to find out as to which public authority is concerned with the information even after making reasonable efforts to find out the concerned public authority, he should inform the applicant that the information is not

available with his public authority and that he is not aware of the particulars of the concerned public authority to which the application could be transferred. It would, however, be the responsibility of the PIO, if an appeal is made against his decision, to establish that he made reasonable efforts to find out the particulars of the concerned public authority.

- (ii) A person makes an application to a public authority for information, only a part of which is available with that public authority and a part of the information concerns some 'another public authority.' In such a case, the Public Information Officer should supply the information concerning his public authority and a copy of the application should be sent to that another public authority under intimation to the applicant.
- (iii) A person makes an application to a public authority for information, a part of which is available with that public authority and the rest of the information is scattered with more than one other public authorities. In such a case, the Public Information Officer of the public authority receiving the application should give information relating to it and advise the applicant to make separate applications to the concerned public authorities for obtaining information from them. If no part of the information sought, is available with it but is scattered with more than one other public authorities, the Public Information Officer should inform the applicant that information is not available with the public authority and that the applicant should make separate applications to the concerned public authorities for obtaining information from them. It may be noted that the Act requires the supply of such information only which already exists and is held by the public authority or held under the control of the public authority. It is beyond the scope of the Act for a public authority to collect the information from various public authorities to supply it to the applicant. At the same time, since the information is not related to any one another particular public authority, it is not the case where application should be transferred under sub-section (3) of Section 6 of the Act. It is pertinent to note that sub-section (3) refers to 'another public authority' and not to 'other public authorities'. Use of singular form in the Act in this regard is important to note.
- (iv) If a person makes an application to a public authority of Central Government for some information which is the concern of a public authority under any State Government or the Union Territory Administration, the Public Information Officer of the public authority receiving the application should inform the applicant that the information may be had from the concerned State Government/UT Administration. Application, in such a case, need not be transferred to the State Government/UT Administration.

6. In brief, if the application is accompanied by the prescribed fee or the Below Poverty Line Certificate, the Public Information Officer should check whether the subject matter of the application or a part thereof concerns some other public authority. If the subject matter of the application concerns any other public authority, it should be transferred to that public authority. If only a part of the application concerns the other public authority, a copy of the application may be sent to that public authority, clearly specifying the part which relates to that public authority. While transferring the application or sending a copy thereof, the concerned public authority should be informed that the application fee has been received. The applicant should also be informed about the transfer of his application and the particulars of the public authority to whom the application or a copy thereof has been sent.

7. Transfer of application or part thereof, as the case may be, should be made as soon as possible and in any case within five days from the date of receipt of the application. If a Public Information Officer transfers an application after five days from the receipt of the application, he would be responsible for delay in disposal of the application to the extent of number of days which he takes in transferring the application beyond 5 days.

40

8. The Public Information Officer of the public authority to whom the application is transferred, should not refuse acceptance of transfer of the application on the ground that it was not transferred to him within 5 days.

9. A public authority may designate as many Public Information Officers for it, as it may deem necessary. It is possible that in a public authority with more than one Public Information Officer, an application is received by the Public Information Officer other than the concerned Public Information Officer. In such a case, the Public Information Officer receiving the application should transfer it to the concerned Public Information Officer immediately, preferably the same day. Time period of five days for transfer of the application applies only when the application is transferred from one public authority to another public authority and not for transfer from one Public Information Officer to another in the same public authority.

Rendering Assistance to Applicants

10. The RTI Act provides that the Public Information Officer has a duty to render reasonable assistance to the persons seeking information. As per provisions of the Act, a person, who desires to obtain any information is required to make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is made. If a person seeking information is not able to make such request in writing, the Public Information Officer should render reasonable assistance to him to reduce the same in writing.

11. Where access to a record is required to be provided to a sensorily disabled person, the Public Information Officer should provide assistance to such person to enable him to access the information. He should also provide such assistance to the person as may be appropriate for the inspection of records where such inspection is involved.

Assistance Available to PIO

12. The Public Information Officer may seek the assistance of any other officer as he or she considers necessary for the proper discharge of his or her duties. The officer, whose assistance is so sought by the Public Information Officer, would render all assistance to him. Such an officer shall be deemed to be a Public Information Officer and would be liable for contravention of any provisions of the Act the same way as any other Public Information Officer. It would be advisable for the Public Information Officer to inform the officer whose assistance is sought, about the above provision, at the time of seeking his assistance.

13. Some Public Information Officers, on the basis of above referred provision of the Act, transfer the RTI applications received by them to other officers and direct them to send information to the applicants as deemed Public Information Officer. Thus, they use the above referred provision to designate other officers as Public Information Officer. According to the Act, it is the responsibility of the officer who is designated as the Public Information Officer by the public authority to provide information to the applicant or reject the application for any reasons specified in Sections 8 and 9 of the Act. The Act enables the Public Information Officer to seek assistance of any other officer to enable him to provide information to the information seeker, but it does not give him authority to designate any other officer as Public Information Officer and direct him to send reply to the applicant. The import of the provision is that, if the officer whose assistance is sought by the Public Information Officer, does not render necessary help to him, the Information Commission may impose penalty on such officer or recommend disciplinary action against him the same way as the Commission may impose penalty on or recommend disciplinary action against the Public Information Officer.

Supply of Information

14. The answering Public Information Officer should check whether the information sought or a part thereof is exempt from disclosure under Section 8 or Section 9 of the Act. Request in

41-
respect of the part of the application which is so exempt may be rejected and rest of the information should be provided immediately or after receipt of additional fees, as the case may be.

15. Where a request for information is rejected, the Public Information Officer should communicate to the person making the request—

- (i) the reasons for such rejection;
- (ii) the period within which an appeal against such rejection may be preferred; and
- (iii) the particulars of the authority to whom an appeal can be made.

16. If additional fee is required to be paid by the applicant as provided in the Fee and Cost Rules, the Public Information Officer should inform the applicant:

- (i) the details of further fees required to be paid;
- (ii) the calculations made to arrive at the amount of fees asked for;
- (iii) the fact that the applicant has a right to make appeal about the amount of fees so demanded;
- (iv) the particulars of the authority to whom such an appeal can be made; and
- (v) the time limit within which the appeal can be made.

Supply of Part Information by Severance

17. Where a request is received for access to information which is exempt from disclosure but a part of which is not exempt, and such part can be severed in such a way that the severed part does not contain exempt information then, access to that part of the information/record may be provided to the applicant. Where access is granted to a part of the record in such a way, the Public Information Officer should inform the applicant that the information asked for is exempt from disclosure and that only part of the record is being provided, after severance, which is not exempt from disclosure. While doing so, he should give the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based. The Public Information Officer should take the approval of appropriate authority before supply of information in such a case and should inform the name and designation of the person giving the decision to the applicant also.

Time Period for Supply of Information

18. The Public Information Officer should supply the information within thirty days of the receipt of the request. Where the information sought for concerns the life or liberty of a person, the same should be provided within forty-eight hours of the receipt of the request. If request for information is received through the APIO, the information may be provided within 30 days of receipt of application by the APIO in normal course and 48 hours plus 5 days in case the information sought concerns the life or liberty of a person.

19. In case of an application transferred from one public authority to another public authority, reply should be provided by the concerned public authority within 30 days of the receipt of the application by that public authority in normal course and within 48 hours in case the information sought concerns the life or liberty of a person.

20. The Public Information Officers of the intelligence and security organisations specified in the Second Schedule of the Act may receive applications seeking information pertaining to allegations of corruption and human rights violations. Information in respect of allegations of violation of human rights, which is provided only after the approval of the Central Information Commission, should be provided within forty-five days from the date of the receipt of request. Time limit prescribed for supplying information in regard to allegations of corruption is the same as in other cases.

42-

21. Where the applicant is asked to pay additional fee, the period intervening between the dispatch of the intimation about payment of fee and the payment of fee by the applicant shall be excluded for the purpose of calculating the period of reply. The following table shows the maximum time which may be taken to dispose off the applications in different situations:

Sr. No.	Situation	Time limit for disposing off applications
1.	Supply of information in normal course.	30 days
2.	Supply of information if it concerns the life or liberty of a person.	48 hours
3.	Supply of information if the application is received through APIO.	05 days shall be added to the time period indicated at Sr. No. 1 and 2.
4.	Supply of information if application/request is received after transfer from another public authority: (a) In normal course (b) In case the information concerns the life or liberty of a person.	(a) Within 30 days of the receipt of the application by the concerned public authority. (b) Within 48 hours of receipt of the application by the concerned public authority.
5.	Supply of information by organizations specified in the Second Schedule: (a) If information relates to allegations of violation of human rights. (b) In case information relates to allegations of corruption.	(a) 45 days from the receipt of application. (b) Within 30 days of the receipt of application.
6.	Supply of information if it relates to third party and the third party has treated it as confidential.	Should be provided after following the procedure given in para 23 to 28 of this part of the document.
7.	Supply of information where the applicant is asked to pay additional fee.	The period intervening between informing the applicant about additional fee and the payment of fee by the applicant shall be excluded for calculating the period of reply.

22. If the Public Information Officer fails to give decision on the request for information within the prescribed period, he shall be deemed to have refused the request. It is pertinent to note that if a public authority fails to comply with the specified time limit, the information to the concerned applicant would have to be provided free of charge.

Disclosure of Third Party Information

23. Information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, is exempt from disclosure. Such an information shall not be disclosed unless the competent authority is satisfied that larger public interest warrants the disclosure of such information.

24. If an applicant seeks any information which relates to or has been supplied by a third party and that third party has treated that information as confidential, the Public Information

Officer shall consider whether the information should be disclosed or not. The guiding principle in such cases is that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party. However, the Public Information Officer would have to follow the following procedure before disclosing such information.

25. If the Public Information Officer intends to disclose the information, he shall within five days from the receipt of the application, give a written notice to the third party that the information has been sought by the applicant under the RTI Act and that he intends to disclose the information. He shall request the third party to make a submission in writing or orally, regarding whether the information may be disclosed. The third party shall be given a time of ten days, from the date of receipt of the notice by him, to make representation against the proposed disclosure, if any.

26. The Public Information Officer shall make a decision regarding disclosure of the information keeping in view the submission of the third party. Such a decision should be taken within forty days from the receipt of the request for information. After taking the decision, the Public Information Officer should give a notice of his decision to the third party in writing. The notice given to the third party should include a statement that the third party is entitled to prefer an appeal under section 19 against the decision.

27. The third party can prefer an appeal to the First Appellate Authority against the decision made by the Public Information Officer within thirty days from the date of the receipt of notice. If not satisfied with the decision of the First Appellate Authority, the third party can prefer a second appeal to the Information Commission.

28. If an appeal has been filed by the third party against the decision of the Public Information Officer to disclose the third party information, the information should not be disclosed till the appeal is decided.

Suo Motu Disclosure

29. The Act makes it obligatory for every public authority to make *suo-motu* disclosure in respect of the particulars of its organization, functions, duties and other matters, as provided in section 4 of the Act. The information so published, according to sub-section (4) of section 4, should be easily accessible with the Public Information Officer in electronic form. The Public Information Officer should, therefore, make concerted efforts to ensure that the requirements of the Section 4 of the RTI Act 2005 are met and maximum information in respect of the public authority is made available on the internet. It would help him in two ways. First, the number of applications under the Act would be reduced and secondly, it would facilitate his work of providing information inasmuch as most of the information would be available to him at one place.

Imposition of Penalty

30. An applicant under the Act has a right to appeal to the Information Commission and also to make complaint to the Commission. Where the information Commission at the time of deciding any complaint or appeal is of the opinion that the Public Information Officer has without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished subject to the condition that the total amount of such penalty shall not exceed twenty-five thousand rupees. The Public Information Officer shall, however, be given a reasonable opportunity of being heard before any penalty is imposed on him. The burden of

- 44 -

proving that he acted reasonably and diligently and in case of denial of a request that such denial was justified shall be on the Public Information Officer.

Disciplinary Action Against PIO

31. Where the Information Commission at the time of deciding any complaint or appeal is of the opinion that the Public Information Officer has without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it may recommend disciplinary action against the Public Information Officer.

Protection for Work Done in Good Faith

32. Section 21 of the Act provides that no suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under the Act or any rule made thereunder. A Public Information Officer should, however, note that it would be his responsibility to prove that his action was in good faith.

Annual Report of the CIC

33. The Central Information Commission prepares a report on the implementation of the provisions of the RTI Act every year, which is laid before each House of the Parliament. This report, *inter-alia*, has to include information about the number of requests made to each public authority, the number of decisions where the applicants were not entitled to access to documents requested for, the provisions of the Act under which these decisions were made and the number of times such provisions were invoked, the amount of charges collected by each public authority under the Act. Each Ministry/Department is required to collect such information from all the public authorities under its jurisdiction and send the same to the Commission. The Public Information Officers should maintain the requisite information in this regard so that it may be supplied to their administrative Ministry/Department soon after the end of the year, which in turn may supply to the Commission.

Part V

FOR FIRST APPELLATE AUTHORITIES

It is the responsibility of the Public Information Officer of a public authority to supply correct and complete information within the specified time to any person seeking information under the RTI Act, 2005. There are possibilities that a Public Information Officer may not act as per provisions of the Act or an applicant may not otherwise be satisfied with the decision of the Public Information Officer. The Act contains provision of two appeals to tide over such situations. The first appeal lies within the public authority itself which is made to an officer designated as the First Appellate Authority by the concerned public authority. The First Appellate Authority happens to be an officer senior in rank to the Public Information Officer. The second appeal lies with the Information Commission. The Central Information Commission (Appeal Procedure) Rules, 2005 govern the procedure for deciding appeals by the Central Information Commission.

First Appeal

2. The information sought by an applicant should either be supplied to him or his application should be rejected within the time prescribed by the Act. If additional fee need be charged from the applicant, communication in this regard should be sent to him within the time limit prescribed for sending information. If the applicant does not receive information or decision about rejection of request or communication about payment of additional fee within the specified time, he can make an appeal to the First Appellate Authority. Appeal can also be made if the applicant is aggrieved by the decision of the Public Information Officer regarding supply of information or the quantum of fee decided by the Public Information Officer.

3. A third party can prefer an appeal to the First Appellate Authority if it is not satisfied with the decision made by the Public Information Officer about disclosure of the information for which it has objected. Such an appeal can be made within thirty days from the date of the receipt of notice from the Public Information Officer to the effect that he proposes to disclose the concerned information. If not satisfied with the decision of the First Appellate Authority, the third party can prefer the second appeal to the Information Commission.

Disposal of Appeal

4. Deciding appeals under the RTI Act is a quasi-judicial function. It is, therefore, necessary that the appellate authority should see to it that the justice is not only done but it should also appear to have been done. In order to do so, the order passed by the appellate authority should be a speaking order giving justification for the decision arrived at.

5. If an appellate authority while deciding an appeal comes to a conclusion that the appellant should be supplied information in addition to what has been supplied by the Public Information Officer, he may either (i) pass an order directing the Public Information Officer to give such information to the appellant; or (ii) he himself may give information to the appellant. In the first case the appellate authority should ensure that the information ordered by him to be supplied is supplied to the appellant immediately. It would, however, be better if the appellate authority chooses the second course of action and he himself furnishes the information alongwith the order passed by him in the matter.

6. If, in any case, the Public Information Officer does not implement the order passed by the appellate authority and the appellate authority feels that intervention of higher authority is required to get his order implemented, he should bring the matter to the notice of the officer in the public authority competent to take action against the Public Information Officer. Such

-46-
competent officer shall take necessary action so as to ensure implementation of the provisions of the RTI Act.

TIME LIMIT FOR DISPOSAL OF APPEAL

7. The first appellate authority should dispose off the appeal within 30 days of receipt of the appeal. In exceptional cases, the Appellate Authority may take 45 days for its disposal. However, in cases where disposal of appeal takes more than 30 days, the Appellate Authority should record in writing the reasons for such delay.